

By the Committee on Banking and Insurance; and Senator Lee

311-1729A-99

1 A bill to be entitled
2 An act relating to health insurance; amending
3 s. 627.6645, F.S.; revising the notice
4 requirements for cancellation or nonrenewal of
5 a group health insurance policy; specifying
6 conditions under which the insurer may
7 retroactively cancel coverage due to nonpayment
8 of premium; amending s. 627.6675, F.S.;
9 revising the time limits for an employee or
10 group member to apply for an individual
11 converted policy when termination of group
12 coverage is due to failure of the employer to
13 pay the premium; revising the requirements for
14 the premium for the converted policy; allowing
15 a group insurer to contract with another
16 insurer to issue an individual converted policy
17 under certain conditions; amending s. 641.3108,
18 F.S.; revising the notice requirements for
19 cancellation or nonrenewal of a health
20 maintenance organization contract; specifying
21 conditions under which the organization may
22 retroactively cancel coverage due to nonpayment
23 of premium; amending s. 641.3922, F.S.;
24 revising the time limits for an employee or
25 group member to apply for a converted contract
26 from a health maintenance organization when
27 termination of group coverage is due to failure
28 of the employer to pay the premium; revising
29 the requirements for the premium for the
30 converted contract; providing an effective
31 date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsection (1) of section 627.6645, Florida
4 Statutes, is amended and subsection (5) is added to that
5 section to read:

6 627.6645 Notification of cancellation, expiration,
7 nonrenewal, or change in rates.--

8 (1) Every insurer delivering or issuing for delivery a
9 group health insurance policy under the provisions of this
10 part shall give the policyholder at least 45 days' advance
11 notice of cancellation, expiration, nonrenewal, or a change in
12 rates. Such notice shall be mailed to the policyholder's last
13 address as shown by the records of the insurer. However, if
14 cancellation is for nonpayment of premium, only the
15 requirements of subsection (5)~~this section shall not~~ apply.
16 Upon receipt of such notice, the policyholder shall forward,
17 as soon as practicable, the notice of expiration,
18 cancellation, or nonrenewal to each certificateholder covered
19 under the policy.

20 (5) If cancellation is due to nonpayment of premium,
21 the insurer may not retroactively cancel the policy to a date
22 prior to the date that notice of cancellation was provided to
23 the policyholder unless the insurer mails notice of
24 cancellation to the policyholder prior to 45 days after the
25 date the premium was due. Such notice must be mailed to the
26 policyholder's last address as shown by the records of the
27 insurer.

28 Section 2. Section 627.6675, Florida Statutes, 1998
29 Supplement, is amended to read:

30 627.6675 Conversion on termination of
31 eligibility.--Subject to all of the provisions of this

1 section, a group policy delivered or issued for delivery in
2 this state by an insurer or nonprofit health care services
3 plan that provides, on an expense-incurred basis, hospital,
4 surgical, or major medical expense insurance, or any
5 combination of these coverages, shall provide that an employee
6 or member whose insurance under the group policy has been
7 terminated for any reason, including discontinuance of the
8 group policy in its entirety or with respect to an insured
9 class, and who has been continuously insured under the group
10 policy, and under any group policy providing similar benefits
11 that the terminated group policy replaced, for at least 3
12 months immediately prior to termination, shall be entitled to
13 have issued to him or her by the insurer a policy or
14 certificate of health insurance, referred to in this section
15 as a "converted policy." A group insurer may meet the
16 requirements of this section by contracting with another
17 insurer, authorized in this state, to issue an individual
18 converted policy, which policy has been approved by the
19 department under s. 627.410. An employee or member shall not
20 be entitled to a converted policy if termination of his or her
21 insurance under the group policy occurred because he or she
22 failed to pay any required contribution, or because any
23 discontinued group coverage was replaced by similar group
24 coverage within 31 days after discontinuance.

25 (1) TIME LIMIT.--Written application for the converted
26 policy shall be made and the first premium must be paid to the
27 insurer, not later than 63 days after termination of the group
28 policy. However, if termination was the result of failure to
29 pay any required premium or contribution and such nonpayment
30 of premium was due to acts of an employer or policyholder
31 other than the employee or certificateholder and written

1 notice of cancellation was not provided to the employee or
2 certificateholder by the employer or policyholder, written
3 application for the converted policy must be made and the
4 first premium must be paid to the insurer not later than 63
5 days after notice of termination is mailed by the insurer to
6 the employee's or certificateholder's last address as shown by
7 the records of the insurer. In such case of termination due to
8 nonpayment of premium by the employer or policyholder, the
9 premium for the converted policy may not exceed the rate for
10 the prior group coverage for the period of coverage under the
11 converted policy prior to the date notice of termination is
12 mailed by the insurer to the employee or certificateholder.
13 For the period of coverage after such date, the premium for
14 the converted policy is subject to the requirements of
15 subsection (3).

16 (2) EVIDENCE OF INSURABILITY.--The converted policy
17 shall be issued without evidence of insurability.

18 (3) CONVERSION PREMIUM; EFFECT ON PREMIUM RATES FOR
19 GROUP COVERAGE.--

20 (a) The premium for the converted policy shall be
21 determined in accordance with premium rates applicable to the
22 age and class of risk of each person to be covered under the
23 converted policy and to the type and amount of insurance
24 provided. However, the premium for the converted policy may
25 not exceed 200 percent of the standard risk rate as
26 established by the department, pursuant to this subsection.

27 (b) Actual or expected experience under converted
28 policies may be combined with such experience under group
29 policies for the purposes of determining premium and loss
30 experience and establishing premium rate levels for group
31 coverage.

1 (c) The department shall annually determine standard
2 risk rates, using reasonable actuarial techniques and
3 standards adopted by the department by rule. The standard risk
4 rates must be determined as follows:

5 1. Standard risk rates for individual coverage must be
6 determined separately for indemnity policies, preferred
7 provider/exclusive provider policies, and health maintenance
8 organization contracts.

9 2. The department shall survey insurers and health
10 maintenance organizations representing at least an 80 percent
11 market share, based on premiums earned in the state for the
12 most recent calendar year, for each of the categories
13 specified in subparagraph 1.

14 3. Standard risk rate schedules must be determined,
15 computed as the average rates charged by the carriers
16 surveyed, giving appropriate weight to each carrier's
17 statewide market share of earned premiums.

18 4. The rate schedule shall be determined from analysis
19 of the one county with the largest market share in the state
20 of all such carriers.

21 5. The rate for other counties must be determined by
22 using the weighted average of each carrier's county factor
23 relationship to the county determined in subparagraph 4.

24 6. The rate schedule must be determined for different
25 age brackets and family size brackets.

26 (4) EFFECTIVE DATE OF COVERAGE.--The effective date of
27 the converted policy shall be the day following the
28 termination of insurance under the group policy.

29 (5) SCOPE OF COVERAGE.--The converted policy shall
30 cover the employee or member and his or her dependents who
31 were covered by the group policy on the date of termination of

1 insurance. At the option of the insurer, a separate converted
2 policy may be issued to cover any dependent.

3 (6) OPTIONAL COVERAGE.--The insurer shall not be
4 required to issue a converted policy covering any person who
5 is or could be covered by Medicare. The insurer shall not be
6 required to issue a converted policy covering a person if
7 paragraphs (a) and (b) apply to the person:

8 (a) If any of the following apply to the person:

9 1. The person is covered for similar benefits by
10 another hospital, surgical, medical, or major medical expense
11 insurance policy or hospital or medical service subscriber
12 contract or medical practice or other prepayment plan, or by
13 any other plan or program.

14 2. The person is eligible for similar benefits,
15 whether or not actually provided coverage, under any
16 arrangement of coverage for individuals in a group, whether on
17 an insured or uninsured basis.

18 3. Similar benefits are provided for or are available
19 to the person under any state or federal law.

20 (b) If the benefits provided under the sources
21 referred to in subparagraph (a)1. or the benefits provided or
22 available under the sources referred to in subparagraphs (a)2.
23 and 3., together with the benefits provided by the converted
24 policy, would result in overinsurance according to the
25 insurer's standards. The insurer's standards must bear some
26 reasonable relationship to actual health care costs in the
27 area in which the insured lives at the time of conversion and
28 must be filed with the department prior to their use in
29 denying coverage.

30 (7) INFORMATION REQUESTED BY INSURER.--

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1 (a) A converted policy may include a provision under
2 which the insurer may request information, in advance of any
3 premium due date, of any person covered thereunder as to
4 whether:

5 1. The person is covered for similar benefits by
6 another hospital, surgical, medical, or major medical expense
7 insurance policy or hospital or medical service subscriber
8 contract or medical practice or other prepayment plan or by
9 any other plan or program.

10 2. The person is covered for similar benefits under
11 any arrangement of coverage for individuals in a group,
12 whether on an insured or uninsured basis.

13 3. Similar benefits are provided for or are available
14 to the person under any state or federal law.

15 (b) The converted policy may provide that the insurer
16 may refuse to renew the policy or the coverage of any person
17 only for one or more of the following reasons:

18 1. Either the benefits provided under the sources
19 referred to in subparagraphs (a)1. and 2. for the person or
20 the benefits provided or available under the sources referred
21 to in subparagraph (a)3. for the person, together with the
22 benefits provided by the converted policy, would result in
23 overinsurance according to the insurer's standards on file
24 with the department.

25 2. The converted policyholder fails to provide the
26 information requested pursuant to paragraph (a).

27 3. Fraud or intentional misrepresentation in applying
28 for any benefits under the converted policy.

29 4. Other reasons approved by the department.

30 (8) BENEFITS OFFERED.--

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1 (a) An insurer shall not be required to issue a
2 converted policy that provides benefits in excess of those
3 provided under the group policy from which conversion is made.

4 (b) An insurer shall offer the benefits specified in
5 s. 627.668 and the benefits specified in s. 627.669 if those
6 benefits were provided in the group plan.

7 (c) An insurer shall offer maternity benefits and
8 dental benefits if those benefits were provided in the group
9 plan.

10 (9) PREEXISTING CONDITION PROVISION.--The converted
11 policy shall not exclude a preexisting condition not excluded
12 by the group policy. However, the converted policy may provide
13 that any hospital, surgical, or medical benefits payable under
14 the converted policy may be reduced by the amount of any such
15 benefits payable under the group policy after the termination
16 of covered under the group policy. The converted policy may
17 also provide that during the first policy year the benefits
18 payable under the converted policy, together with the benefits
19 payable under the group policy, shall not exceed those that
20 would have been payable had the individual's insurance under
21 the group policy remained in force.

22 (10) REQUIRED OPTION FOR MAJOR MEDICAL
23 COVERAGE.--Subject to the provisions and conditions of this
24 part, the employee or member shall be entitled to obtain a
25 converted policy providing major medical coverage under a plan
26 meeting the following requirements:

27 (a) A maximum benefit equal to the lesser of the
28 policy limit of the group policy from which the individual
29 converted or \$500,000 per covered person for all covered
30 medical expenses incurred during the covered person's
31 lifetime.

1 (b) Payment of benefits at the rate of 80 percent of
2 covered medical expenses which are in excess of the
3 deductible, until 20 percent of such expenses in a benefit
4 period reaches \$2,000, after which benefits will be paid at
5 the rate of 90 percent during the remainder of the contract
6 year unless the insured is in the insurer's case management
7 program, in which case benefits shall be paid at the rate of
8 100 percent during the remainder of the contract year. For
9 the purposes of this paragraph, "case management program"
10 means the specific supervision and management of the medical
11 care provided or prescribed for a specific individual, which
12 may include the use of health care providers designated by the
13 insurer. Payment of benefits for outpatient treatment of
14 mental illness, if provided in the converted policy, may be at
15 a lesser rate but not less than 50 percent.

16 (c) A deductible for each calendar year that must be
17 \$500, \$1,000, or \$2,000, at the option of the policyholder.

18 (d) The term "covered medical expenses," as used in
19 this subsection, shall be consistent with those customarily
20 offered by the insurer under group or individual health
21 insurance policies but is not required to be identical to the
22 covered medical expenses provided in the group policy from
23 which the individual converted.

24 (11) ALTERNATIVE PLANS.--The insurer shall, in
25 addition to the option required by subsection (10), offer the
26 standard health benefit plan, as established pursuant to s.
27 627.6699(12). The insurer may, at its option, also offer
28 alternative plans for group health conversion in addition to
29 the plans required by this section.

30 (12) RETIREMENT COVERAGE.--If coverage would be
31 continued under the group policy on an employee following the

1 employee's retirement prior to the time he or she is or could
2 be covered by Medicare, the employee may elect, instead of
3 such continuation of group insurance, to have the same
4 conversion rights as would apply had his or her insurance
5 terminated at retirement by reason or termination of
6 employment or membership.

7 (13) REDUCTION OF COVERAGE DUE TO MEDICARE.--The
8 converted policy may provide for reduction of coverage on any
9 person upon his or her eligibility for coverage under Medicare
10 or under any other state or federal law providing for benefits
11 similar to those provided by the converted policy.

12 (14) CONVERSION PRIVILEGE ALLOWED.--The conversion
13 privilege shall also be available to any of the following:

14 (a) The surviving spouse, if any, at the death of the
15 employee or member, with respect to the spouse and the
16 children whose coverages under the group policy terminate by
17 reason of the death, otherwise to each surviving child whose
18 coverage under the group policy terminates by reason of such
19 death, or, if the group policy provides for continuation of
20 dependents' coverages following the employee's or member's
21 death, at the end of such continuation.

22 (b) The former spouse whose coverage would otherwise
23 terminate because of annulment or dissolution of marriage, if
24 the former spouse is dependent for financial support.

25 (c) The spouse of the employee or member upon
26 termination of coverage of the spouse, while the employee or
27 member remains insured under the group policy, by reason of
28 ceasing to be a qualified family member under the group
29 policy, with respect to the spouse and the children whose
30 coverages under the group policy terminate at the same time.

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1 (d) A child solely with respect to himself or herself
2 upon termination of his or her coverage by reason of ceasing
3 to be a qualified family member under the group policy, if a
4 conversion privilege is not otherwise provided in this
5 subsection with respect to such termination.

6 (15) BENEFIT LEVELS.--If the benefit levels required
7 in subsection (10) exceed the benefit levels provided under
8 the group policy, the conversion policy may offer benefits
9 which are substantially similar to those provided under the
10 group policy in lieu of those required in subsection (10).

11 (16) GROUP COVERAGE INSTEAD OF INDIVIDUAL
12 COVERAGE.--The insurer may elect to provide group insurance
13 coverage instead of issuing a converted individual policy.

14 (17) NOTIFICATION.--A notification of the conversion
15 privilege shall be included in each certificate of coverage.
16 The insurer shall mail an election and premium notice form,
17 including an outline of coverage, on a form approved by the
18 department, within 14 days after an individual who is eligible
19 for a converted policy gives notice to the insurer that the
20 individual is considering applying for the converted policy or
21 otherwise requests such information. The outline of coverage
22 must contain a description of the principal benefits and
23 coverage provided by the policy and its principal exclusions
24 and limitations, including, but not limited to, deductibles
25 and coinsurance.

26 (18) OUTSIDE CONVERSIONS.--A converted policy that is
27 delivered outside of this state must be on a form that could
28 be delivered in the other jurisdiction as a converted policy
29 had the group policy been issued in that jurisdiction.

30 (19) APPLICABILITY.--This section does not require
31 conversion on termination of eligibility for a policy or

1 contract that provides benefits for specified diseases, or for
2 accidental injuries only, disability income, Medicare
3 supplement, hospital indemnity, limited benefit,
4 nonconventional, or excess policies.

5 (20) Nothing in this section or in the incorporation
6 of it into insurance policies shall be construed to require
7 insurers to provide benefits equal to those provided in the
8 group policy from which the individual converted, provided,
9 however, that comprehensive benefits are offered which shall
10 be subject to approval by the Insurance Commissioner.

11 Section 3. Section 641.3108, Florida Statutes, is
12 amended to read:

13 641.3108 Notice of cancellation of contract.--

14 (1) Except for nonpayment of premium or termination of
15 eligibility, no health maintenance organization may cancel or
16 otherwise terminate or fail to renew a health maintenance
17 contract without giving the subscriber at least 45 days'
18 notice in writing of the cancellation, termination, or
19 nonrenewal of the contract. The written notice shall state the
20 reason or reasons for the cancellation, termination, or
21 nonrenewal. All health maintenance contracts shall contain a
22 clause which requires that this notice be given.

23 (2) If cancellation is due to nonpayment of premium,
24 the health maintenance organization may not retroactively
25 cancel the contract to a date prior to the date that notice of
26 cancellation was provided to the subscriber unless the
27 organization mails notice of cancellation to the subscriber
28 prior to 45 days after the date the premium was due. Such
29 notice must be mailed to the subscriber's last address as
30 shown by the records of the organization.

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1 (3) In the case of a health maintenance contract
2 issued to an employer or person holding the contract on behalf
3 of the subscriber group, the health maintenance organization
4 may make the notification through the employer or group
5 contract holder, and, if the health maintenance organization
6 elects to take this action through the employer or group
7 contract holder, the organization shall be deemed to have
8 complied with the provisions of this section upon notifying
9 the employer or group contract holder of the requirements of
10 this section and requesting the employer or group contract
11 holder to forward to all subscribers the notice required
12 herein.

13 Section 4. Subsection (1) of section 641.3922, Florida
14 Statutes, 1998 Supplement, is amended to read:

15 641.3922 Conversion contracts; conditions.--Issuance
16 of a converted contract shall be subject to the following
17 conditions:

18 (1) TIME LIMIT.--Written application for the converted
19 contract shall be made and the first premium paid to the
20 health maintenance organization not later than 63 days after
21 such termination. However, if termination was the result of
22 failure to pay any required premium or contribution and such
23 nonpayment of premium was due to acts of an employer or group
24 contract holder other than the employee or individual
25 subscriber and written notice of cancellation was not provided
26 to the employee or individual by the employer or group
27 contract holder, written application for the contract must be
28 made and the first premium paid not later than 63 days after
29 notice of termination is mailed by the organization to the
30 employee's or individual's last address as shown by the
31 records of the health maintenance organization. In such case

1 of termination due to nonpayment of premium by the employer or
2 group contract holder, the premium for the converted contract
3 shall not exceed the rate for the prior group coverage for the
4 period of coverage under the converted contract prior to the
5 date notice of termination is mailed by the health maintenance
6 organization to the employee or individual subscriber. For the
7 period of coverage after such date, the premium for the
8 converted contract is subject to the requirements of
9 subsection (3).

10 Section 5. This act shall take effect October 1, 1999,
11 and shall apply to policies and contracts issued or renewed on
12 or after that date.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 312

Prohibits an insurance company or a health maintenance organization (HMO) from retroactively canceling a group health insurance contract, due to nonpayment of premium, prior to the date the notice of cancellation is mailed by the insurer or HMO to the employer, unless the notice is mailed within 45 days after the date the premium was due.

If the termination of an employee's health insurance coverage is due to nonpayment of premium by the employer and written notice of cancellation was not provided to the employee by the employer, the following requirements apply:

- The 63-day time period within which the employee must apply for an individual conversion policy would not begin to run until the date the insurer or HMO mails the notice of cancellation to the employee.
- The premium for the conversion policy would be at the previous group rate for the time period prior to the date the insurer or HMO mails notice to the employee. For the period of coverage after such date, the premium for the converted policy would be subject to the requirements of current law which provides that such premium may not exceed 200 percent of the standard risk rate as established by the Department of Insurance.

The committee substitute clarifies the current law to allow group insurers to contract with another insurer to issue conversion contracts on its behalf, provided that the other insurer is authorized in Florida and the policy has been approved by the Department of Insurance.